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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,573	01/07/2002	James Brown	2001JB01	1769

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09/10/2002

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EXAMINER

MORRISON, NASCHICA SANDERS

ART UNIT

PAPER NUMBER

3632

DATE MAILED: 09/10/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/039,573

Applicant(s)

BROWN, JAMES

Examiner

Naschica S Morrison

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 January 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

This is the first Office Action for serial number 10/039,573, Tool Hanger, filed on January 7, 2002. Claims 1-14 are pending.

Information Disclosure Statement

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A (1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Specification

The disclosure is objected to because of the following informalities: on page 7, line 19, "an Trademark" should be --and Trademark--; on page 10, line 7, "users" should be --user's-- and on line 22 "multiple" should be --multitude--; on page 10, lines 19 and 22, "invention 10" should be --invention 8--; in the Abstract, on line 6, "permit" should be --permits--. Appropriate correction is required.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "10" and "20" have both been used to designate the

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shaped portion (see figures 1-4). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "threaded" apertures as claimed in claim 3; horizontally oriented portion being "longer" than the vertically oriented portion; and the apertures being "non-circular" must be shown or the features canceled from the claims. No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 8 and 14 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Applicant has not disclosed in the specification or drawings the manner in which the second end of the horizontally oriented portion

becomes a substitute or replacement for part of the tool's housing. Clarification is required.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 9 recite the limitation "the second end" in line 5. There is insufficient antecedent basis for this limitation in the claim.

Regarding claims 7 and 13, the phrase "*the remainder* of the horizontally oriented portion" is generally vague and non-descriptive. A general suggestion is – a portion of the horizontally oriented portion that is adjacent to the first end--. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 7, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 3,140,071 to Lorentzen. Regarding claims 1, 2, 7, and 8 (as best understood), Lorentzen discloses a bracket comprising: a horizontally oriented portion

(17 and 20); a vertically oriented portion (18) joined to the horizontally oriented portion (17, 20) at first ends thereof at a bend (at 16 shown in Figure 4); and two apertures (29) located in the center of a second end of the horizontally oriented portion (17), wherein the second end of the horizontally oriented portion is enlarged (as viewed in Fig. 4, the thickness of the second end (17 generally) is greater than the first end (at 20)), and wherein the apertures are dimensioned and spaced to permit secure connection to an object.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 5, 6, 9, and 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lorentzen. With regards to claim 3, Lorentzen discloses the bracket as applied above, but does not disclose the apertures (29) being threaded. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the apertures to be threaded because one would have been motivated to provide a means for securing alternative fasteners, such as screws or bolts, to the bracket since nails, screws, and bolts are well known for their use in the fastening art and the selection of any of these known equivalents and their

complementary aperture to attach the bracket to an object would be within the level of ordinary skill in the art.

Regarding claims 5, 6, 11, and 12, Lorentzen discloses the bracket as applied above, but does not expressly disclose the horizontally oriented portion (17, 20) being longer or shorter than the vertically oriented portion (18). However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the lengths of the horizontal and vertical portions, since it has been held that a change in the size of a prior art device is a design consideration within the skill of the art. In re Rose, 220 F.2d 459, 105 USPQ 237 (CCPA 1955).

Regarding claims 9, 13, and 14 (as best understood), Lorentzen discloses the bracket as applied above, but does not disclose the apertures (29) being non-circular. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the apertures to be of various shapes including oval or cylindrical, since it has been held that a change in the shape of a prior art device is a design consideration within the skill of the art. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966).

Claims 4 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lorentzen in view of U.S. Patent 4,733,879 to Arenhold. With regards to claims 4 and 10, Lorentzen discloses the bracket as applied above, but does not disclose the bracket being adjustably bendable. Arenhold discloses a bracket (21) that is adjustably bent. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the bracket by forming it from a sufficiently flexible material

because one would have been motivated to permit the bracket to adapt to various object shapes as taught by Arenhold (col. 5, lines 47-50).

Claims 1-3, 5-9, and 11-14 are rejected under 35 U.S.C. 102(b) as being unpatentable over U.S. Patent 6,010,103 to Ashworth. Regarding claims 1-3, 5, 8 (as best understood), and 11, Ashworth discloses a hanger comprising: a horizontally oriented portion (16); a vertically oriented portion (14) joined to the horizontally oriented portion (16) at first ends thereof at a bend (18) and being shorter than the horizontally oriented portion; and a threaded aperture (20) located in the center of a second end of the horizontally oriented portion (16), wherein the aperture is dimensioned and spaced to permit secure connection to an object. Ashworth does not disclose the horizontally oriented portion (16) including a plurality of apertures. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the hanger by providing more than one aperture for mounting the hanger to an object since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art.

Regarding claims 6, 7, 12, and 13, Ashworth discloses the hanger as applied above, but does not expressly disclose the horizontally oriented portion (16) being the same size as or shorter than the vertically oriented portion (14) or the second end of the horizontally oriented portion being enlarged relative to the first end. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the lengths of the horizontal and vertical portions and the proportion of the first and second ends of the horizontal portion (16), since it has been held that a

change in the size of a prior art device is a design consideration within the skill of the art. In re Rose, 220 F.2d 459, 105 USPQ 237 (CCPA 1955).

Regarding claims 9 and 14 (as best understood), Ashworth discloses the hanger as applied to claim 1 above, but does not disclose the apertures being non-circular. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the apertures to be of various shapes including oval or cylindrical, since it has been held that a change in the shape of a prior art device is a design consideration within the skill of the art. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966).

Claims 4 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ashworth in view of U.S. Patent 4,733,879 to Arenhold. With regards to claims 4 and 10, Ashworth discloses the hanger as applied above, but does not disclose the hanger being adjustably bendable. Arenhold discloses a bracket (21) that is adjustably bent. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the hanger by forming it from a sufficiently flexible material because one would have been motivated to permit the hanger to adapt to various object shapes as taught by Arenhold (col. 5, lines 47-50).

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Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

1225525 to Sweet; 1938158 to Steele; 2374622 to Rugg; 2579240 to Masoner;
2952343 to Modrey; 3055625 to Kopf et al; 3837609 to Weiss et al;
D236251 to Cunningham; 3964229 to Fischer; D244830 to Tulak;
4447030 to Nattel; 4569458 to Horsley; 4979715 to Rancourt;
5575223 to Hendel; 5662302 to Berry, Jr.; 5664754 to Gaenslen;
6202969 to Orr

The above references disclose holders relevant to Applicant's invention.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Naschica S. Morrison, whose telephone number is (703) 305-0228. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Leslie Braun can be reached at 703-308-2156. The fax machine telephone number for the Technology Center is (703) 872-9326 (formal amendments) or (703) 872-9327 (After Final amendments).

Any inquiry of a general nature or relating to the status of this Application should be directed to the Technology Center receptionist at (703) 872-9325.


Naschica S. Morrison
Patent Examiner
Art Unit 3632
9/4/02


ANITA KING
PRIMARY EXAMINER